

## UNITED STATES DISTRICT COURT

for the  
District of OREGON

FILED 13 NOV '23 16:00 USDC-ORP

PORTLAND Division

Ian Leonard Clark

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Ellen F. Rosenblum, Attorney General  
Office of the Attorney General  
1162 Court St. NE  
Salem, Oregon, 97301-4096

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No.

3:23-cv-1667-SB  
(to be filled in by the Clerk's Office)Jury Trial: (check one) ☒ Yes ☐ No

## COMPLAINT FOR A CIVIL CASE

## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Ian Clark
Street Address	12399 SE Oatfield Rd
City and County	Portland Clackamas
State and Zip Code	Oregon 97222
Telephone Number	503 593 8483
E-mail Address	ianclark01@gmail.com

## B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

## Defendant No. 1

Name	Ellen F. Rosenblum
Job or Title <i>(if known)</i>	Attorney General
Street Address	1162 Court St. NE
City and County	Salem / Marion
State and Zip Code	OR / 97301
Telephone Number	503-378-6002
E-mail Address <i>(if known)</i>	AttorneyGeneral@doj.state.or.us

## Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

## Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

## Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

**II. Basis for Jurisdiction**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

- ☒ Federal question ☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

At issue: The deleterious effect of ORS 14.270 upon the operation of the U.S Constitution in the state of Oregon. The following parts of the U.S Constitution are negated by the operation of ORS 14.270 inside Oregon's County Circuit Courts:

- (a) 14th Amendment, Part 1, "due process" and "equal protection" clauses;
- (b) 5th Amendment, the right to due process;
- (c) 6th Amendment, the right to an impartial procedure.

28 USC §1331 ("FEDERAL QUESTION");  
Article VI. Para 2 ("Supremacy Clause")

**B. If the Basis for Jurisdiction Is Diversity of Citizenship****1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* \_\_\_\_\_, is a citizen of the  
State of *(name)* \_\_\_\_\_.

**b. If the plaintiff is a corporation**

The plaintiff, *(name)* \_\_\_\_\_, is incorporated  
under the laws of the State of *(name)* \_\_\_\_\_,  
and has its principal place of business in the State of *(name)* \_\_\_\_\_.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

2. The Defendant(s)

a. If the defendant is an individual

The defendant, (name) \_\_\_\_\_, is a citizen of the State of (name) \_\_\_\_\_. Or is a citizen of (foreign nation) \_\_\_\_\_.

b. If the defendant is a corporation

The defendant, (name) \_\_\_\_\_, is incorporated under the laws of the State of (name) \_\_\_\_\_, and has its principal place of business in the State of (name) \_\_\_\_\_. Or is incorporated under the laws of (foreign nation) \_\_\_\_\_, and has its principal place of business in (name) \_\_\_\_\_.

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

\$200,000. The erroneous state law, ORS 14.270 and the local derivative, SLR 7.045, were used by Multnomah County Court to deny Plaintiff his Constitutional rights. This occurred during the suit against the Oregon Board of Dentistry et al (#22CV02753). The conduct of the trial court warrants damages, based on the obstructive and aggressive demeanor of court staff, endured while they intentionally deprived the Plaintiff of his Constitutional right to a fair trial.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

The Plaintiff requests that the Court certify with the Attorney General's Office a "Notice of Constitutional Question", pursuant to USC 28 §2403.

This Complaint describes why ORS 14.270 destroys, entirely, the spirit and the operation of the U.S Constitution in the state of Oregon. So clear and obvious is this transgression that any member of the public may comprehend the dire state of the U.S Constitution, in Oregon, by simply reading the current wording of ORS 14.270. ORS 14.270 'explains' what a Complainant should do in order to recuse a judge. However, the wording of the law makes it impossible to do so. The obvious statement to make is that when a biased or unfair judge cannot be removed, then the law that prevents removal also violates the public's inalienable right to an impartial and fair trial (see below, 1 - 3). Today's complaint refers, explicitly, to the vagaries of ORS 14.270. Furthermore, this complaint implicates every County Circuit Court that uses a Supplementary Local Rule ("SLR") derived from ORS 14.270. The most pertinent examples, in the context of the Plaintiff's own experience of 'local fraud', took place at Multnomah County Circuit Court (MCCC). The MCCC use(d) an illegal local rule SLR 7.045 - promulgated by ORS 14.270 - to prevent the Plaintiff from exercising the right to remove Judge Benjamin Souede from the his case (Clark v. Oregon Board of Dentistry et al., #22CV02753). The Plaintiff has experienced the loss of liberty and justice as a direct consequence of MCCC's use of SLR 7.045. But, even if he had not experienced some sort of personal loss, the unconstitutional effects of ORS 14.270 invite a "facial challenge". This is because the current wording disenfranchises every Oregon resident, and it does so in precisely the same way.

ORS 14.270 is unconstitutional because it affords insufficient opportunity and inadequate time to any member of the public whose intention it is to file the documentation required to recuse a judicial official. As a consequence, be they Plaintiff or Defendant, innocent or guilty, all of those who reside in Oregon are denied a fair trial. The system does not operate legally; it is not possible to use the system legally, even in theory. That is because the litigant must perform a range of impossible tasks, as follows:

□ 1. Notify the Court, either verbally or in writing, of the intention to recuse a particular judge; however, by the statute's current wording that notification must be given on the day of the judge's assignment only - no other day is acceptable. In reality, it is not at all clear how a member of the public would obtain this information when the Complainant has no idea when assignment will take place. The litigant would need to know at the same time as the Court. This does not happen. Then, let us theorize that the litigant does, somehow, find-out the judge's identity on the "day of assignment". In reasonable terms, members of the public, and even lawyers, require a great deal of prior notice if they are to prepare legal paperwork. So, even in a make-believe world, in which members of the public are as informed as the Courts about internal appointments, the existing rule provides only 24 hours for the Complainant to complete the entire filing process. That process continues as follows:

□ 2. As noted above, in order to complete the process a litigant must, within 24 hours of the judge's assignment, file 3 legal documents into the trial court:

(a) an Affidavit. An affidavit must be notarized. This process will almost certainly take more than 24 hours to organize, particularly as the public must find time to attend an external office (e.g. at Fed Ex). It is inauthentic to believe, even in theory, that "man or woman on the street" can, somehow, create 3 legal documents in 24 hours. But, then, there is more. As mentioned, the litigant must attend an external notary's office. All of that within 24 hours. Let's not forget that, in reality, there is no guarantee of an appointment within 24 hours. Even this component, just on its own, requires a great deal more time.

(b) a Motion. In addition to organizing the affidavit, the litigant must produce the main explanatory document, and within the same 24 hours. This is the Motion, which contains a detailed statement of the facts and requires some indication of the legal basis for the claim(s) against the judge. The litigant must also be careful to adhere to a myriad of formatting and presentational aspects. It is obvious that the (very) rapid creation of a lengthy, technical and precisely-annotated legal document is beyond the wildest imaginings of the ordinary working-person if 24 hours is all the time that they are to be afforded. In fact, a lawyer would not attempt it.

(c) an Order. This is a relatively short document, but again it may be the first time that a member of the public has encountered the need to compose an Order for the removal of a state court justice.

In summation, there is no real chance of a member of the public discovering the judge's identity on the same day as the Court. The 24 hour window makes successful follow-up impossible. The wording of ORS 14.270 allows only 24 hours to accomplish what would take a member of the public days or even weeks. By the current wording, a biased judge can never be removed, and the threatening wording of SLR 7.045 is yet worse.

**III. Statement of Claim (continued)**

**The harmful effects of ORS 14.270 on the U.S Constitution.** ORS 14.270, and the SLRs it promulgates, are worded so they have the effect of breaching the: (i) 5th Amendment; (ii) 6th Amendment, and; (iii) 14th Amendment. Again, there is no need for legal advice here. Any member of a literate population will find that the 5th, 6th and 14th Amendments were written to ensure fundamental rights of "due process" and "equal protection". The right to "due process" is a main prop of the U.S Constitution, just as it is for any democratic polity. One may then surmise that Oregon is a democratic polity, but the supposition is incorrect. The wording of ORS 14.270 destroys "due process". It pays no heed whatsoever to "equal protection" as it offers zero protection from judicial corruption. By destroying the U.S Constitution, ORS 14.270 creates, directly, a judicial dictatorship in Oregon.

**FRCP 83.** FRCP 83 sheds light upon the problems created by the wording of ORS 14.270. In addition, County Circuit Courts that adopt SLRs promulgated by ORS 14.270 inevitably breach the terms of FRCP 83. FRCP 83(a)(1) states,

"(a) Local Rules.

(1) *In General.* [...] A local rule must be consistent with—but not duplicate—federal statutes and rules..."

The Federal statute that deals with the recusal of judges is 28 USC §455 and §144. There is no doubt that SLR 7.045 and ORS 14.270 are inconsistent with the intentions of the aforementioned Federal statute and rules. It goes without saying that 28 USC §455 and §144 is not worded to make the recusal of a judicial official impossible by breaching the 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments. FRCP 83 also states,

(2) *Requirement of Form.* A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

SLR 7.045 intentionally (maliciously) enforces a "nonwillful failure to comply" upon the public. It does so by making the recusal process an impossibly difficult task, as does ORS 14.270. The repulsion of the public by the courts is reinforced by threats to "sanction" any Complainant who makes errors in their paperwork. Certainly, 7.045 is consistent with ORS 14.270, but all that means is that both are illegal.

The provisions of FRCP 83 elucidate further the problems associated with the local rules that govern the removal of a biased judge.

**SLR 1.050.** At the level of the local court (MCC), the provisions of SLR 7.045 are rendered illegal by the proper operation of SLR 1.050(1)(b). Furthermore, and to the great shame of the MCC, the local rule actually threatens the well-being of the people of Multnomah County. SLR 7.045 states that should Complainants make errors on their paperwork the court may bring "sanctions" upon them, including "economic sanctions".

Ian Clark 

Date: 9<sup>th</sup> Nov 2023  
 Ianclark01@gmail.com  
 5035938483



**IV. Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

1. There is a compelling rationale that supports the review, and the re-wording, of ORS 14.270. It is a public law, and as such it must be accessible and operable by the public. Unfortunately, at present, ORS 14.270 is not operable by any member of the public, even in theory. This is because ORS 14.270, and its supplementary/local derivatives, do not function in a manner consistent with the intentions of the U.S Constitution. On the contrary, to all intents and purposes the wording makes it impossible to successfully file a complaint against a biased or malicious judge working inside Oregon's state court system. At the "sharp end", the courts' local rules will require similar revision. The revisions should prioritize the removal of threats, such as the threat of "economic sanctions" included into the wording of the MCCC's, SLR 7.045.

The Federal law, and surrounding case law, indicates that a litigant may rightfully file to recuse a judge at any time while her/his case is under the trial court's supervision. Also, prior decisions by the Supreme Court permit a litigant to file retrospectively if there is new evidence of judicial wrong-doing. The ability to file at any time, and retrospectively, abolishes the unconstitutional violation of due process by removing the requirement to file all documentation within 24 hours of assignment.

It is also well worth noting that some states (e.g. California) allow a litigant to remove a judge, one time only, without cause. After which time, the applicable Federal law and case law applies.

2. REVISIT CASE # 22CV02753. The application of illegal court rules (i.e. SLR 7.045), by MCCC, to the aforementioned case has had the effect of denying the Plaintiff his right to a fair trial in exactly the same way as described throughout this document. Consequently, the Plaintiff had no opportunity to petition the trial court for the removal of Judge Souede. In this regard, the Plaintiff was denied the most fundamental of Constitutional rights; that of "due process". In these exceptional circumstances, it is entirely appropriate that the Plaintiff request the Court to vacate Judge Souede's decision and request that the Court decide in the Plaintiff's favor (see Exhibit). As the evidence has shown throughout, the original Defendants are guilty of crimes against the Plaintiff, including the transgression of ORS 679.250.

3. The MCCC is also in violation of ORS 51.05 ("Recording and reporting of proceedings"). ORS 51.05 states, "In any proceeding conducted in open court in a justice court, any party may arrange for audio recording or reporting of the proceeding by stenographic or other means. The court may not prohibit recording or reporting of the proceeding under this section".

(a) In reality, the Plaintiff was not advised that stenographers are not provided by the MCCC. After making an inquiry about the absence of the stenographer, the Plaintiff was emailed that stenographers are available only with Judge Souede's permission. This is not true, and it is an infringement of ORS 51.105. It is another attack upon the Constitution rights of a pro se litigant. Evidently, the strategy at the MCCC is to intentionally violate "due process" and "equal protection" by working to obscure the written-record.

It is then pertinent that the absence of a written-record enabled Judge Souede's trial court to fraudulently tamper with the audio-recordings of the Plaintiff's hearings. Obviously, this sort of thing occurs routinely at MCCC.

(b) There is yet more unethical subterfuge to mention in relation to the conduct of staff at the MCCC. Some weeks after the Plaintiff's case was fraudulently dismissed by Judge Souede, who could not be recused, the Plaintiff's electronic case-files were accessed. This occurred on a Saturday evening and by a mysterious person inside the court (see Exhibits).

The Plaintiff requests that MCCC's malicious strategizing be taken into account when considering any compensatory award or damages.

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**V. Certification and Closing**


Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8<sup>th</sup> Nov 2023

Signature of Plaintiff



Printed Name of Plaintiff

Ian Clark

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Plaintiff(s)

v.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

~~11/13/23~~ Pursuant to Rule 5-1, the AG's Office have been served a  
'NOTICE OF CONSTITUTIONAL QUESTION' by registered or certified mail.  
Please see Certificate of Mailing (attached)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

**CERTIFICATE OF MAILING**

I hereby certify that, pursuant to Rule 5.1:

(a) The addressees listed here were served the Plaintiff's "Notice of Constitutional Question", on the 9<sup>th</sup> November, 2023. I further certify that said copy was placed in a sealed envelope, and mailed by registered or certified mail to the addresses, set forth below, by the United States Post Office, at Milwaukie, Oregon, on the 9<sup>th</sup> November, 2023.

Addressed to:

ELLEN F. ROSENBLUM,

Clerk, US District Court

Office of the Attorney General,

Mark O Hatfield District Courthouse

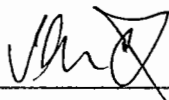
1162 Court St. NE, Salem, OR,

1000 SW 3<sup>rd</sup> Avenue

97301-4096

Portland, 97204

Ian Clark



9<sup>th</sup> November, 2023

Email: [ianclark01@gmail.com](mailto:ianclark01@gmail.com)

FILED 13 NOV '23 16:00 USDC-ORP

**IN THE DISTRICT COURT FOR THE STATE OF OREGON  
FOR THE PORTLAND DIVISION**

IAN CLARK,

12399 SE Oatfield Rd, Milwaukie, OR,  
97222

Plaintiff,

v.

ELLEN F. ROSENBLUM,

Office of the Attorney General,  
1162 Court St. NE, Salem, OR,  
97301-4096

Defendant.

Case No. *3:23-CV-1667-SB*

**NOTICE OF CONSTITUTIONAL  
QUESTION**

28 USC §1331 ("FEDERAL QUESTION")